IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition No. 417 of 2006 (S/B)

Jameel Ahmed S/o Sri Abdul Hamid,
Chief Engineer Level II,
Uttaranchal Pey Jal Sansadhan Vikas
Evam Nirman Nigam,
Nainital. ……. Petitioner

Versus

1. State of Uttaranchal,
through Secretary, Pey Jal,
Civil Secretariat, Uttaranchal,
Dehradun.
2. Chairman,
Uttaranchal Pey Jal Sansadhan Vikas Evam Nirman Nigam,
Anubhag, 11 Mohini Road,
Dehradun,
3. Sri D.K. Gupta, Managing Director,
Uttaranchal Pey Jal Sansadhan Vikas Evam Nirman Nigam,
Anubhag 11 Mohini Road,
Dehradun. ……Respondents

Mr. Rajendra Dobhal, Advocate for the petitioner.
Mr. N.B. Tewari, Addl. Advocate General / Chief Standing Counsel with Mr, Nanak Chand Gupta, Standing Counsel for respondent No. 1.
Mr. Sudhanshu Dhulia, Senior Counsel with Mr. D.S. Patni, Advocate for respondents No.2.

JUDGMENT

Coram: Hon'ble Rajeev Gupta, C.J.
Hon'ble J.C.S. Rawat, J.

RAJEEV GUPTA, C. J. (Oral)

Mr. Rajendra Dobhal, Advocate for the petitioner.

Mr. N.B. Tewari, Addl. Advocate General / Chief Standing Counsel with Mr. Nanak Chand Gupta, Standing Counsel for respondent No. 1.

Mr. Sudhanshu Dhulia, Senior Counsel with Mr. D.S. Patni, Advocate for respondents No.2.

They are heard on admission.

2. Petitioner Jameel Ahmed has filed this writ petition for the following reliefs:

> "(i) Issue a writ of certiorari or any other appropriate writ quashing impugned notification dated 12/10/2006 (Annexure-16 to the petition).
>
> (ii) Issue a writ of mandamus or any other appropriate writ directing the Respondent No. 1 and 2 to consider the candidature of the Petitioner for the post of Managing Director of the Nigam.
>
> (iii) Issue a writ of prohibition directing the Respondent No. 3 to reframe from discharging his duties as Managing Director of the Nigam.
>
> (iv) Issue any other writ order or direction, which this Hon'ble Court may deem fit and proper in the circumstances of this case.
>
> (v) Award the cost of writ petition to the petitioner."

3. The learned counsel for respondents Nos. 1 & 2 have raised a preliminary objection about the maintainability of the writ petition on the ground that the petitioner has an alternative efficacious remedy of filing a claim petition before the Public Services Tribunal.

4. Mr. Rajendra Dobhal, the learned counsel for the petitioner vehemently argued that as the impugned order dated 12.10.2006 (Annexure No. 16), whereby respondent No. 3 Mr. D. K. Gupta was selected as Managing Director of Uttaranchal Pey Jal Sansadhan Vikas Evam Nirman Nigam, does not, in any manner, affects the service conditions of the petitioner, the petitioner may not be relegated to avail the alternative remedy before the Public Services Tribunal.

5. It is not in dispute that in the selection process for the post of Managing Director, the petitioner too was considered along with respondent No. 3 Mr. D. K. Gupta. the petitioner is aggrieved of the selection and appointment of respondent No. 3 Mr. D. K. Gupta as Managing Director is writ large from the very fact that the petitioner has filed this writ petition challenging the impugned order /

notification dated 12.10.2006 (Annexure No. 16). The matter relates to a service matter is ex-facie apparent from the pleadings in the writ petition.

6. In this view of the matter, we have no manner of doubt that the petitioner has an alternative efficacious remedy of filing a claim petition before the Public Services Tribunal for the redressal of his grievances projected in the writ petition. We, therefore, decline to exercise our discretionary jurisdiction under Article 226 of the Constitution of India.

7. The writ petition, therefore, is liable to be dismissed and is hereby dismissed summarily with the liberty to the petitioner to file a claim petition before the Public Services Tribunal for the redressal of the grievances projected in this writ petition.

8. With the above order, CLMA No. 15715 of 2006 also stands dismissed.

(J.C.S. Rawat, J.) 28.02.2007

(Rajeev Gupta, C. J.) 28.02.2007

G